

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 838
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40454-MQa-104

Short Title: DIT Agency Broadband Bill.

(Public)

Sponsors: Representative Johnson.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES RELATED TO BROADBAND LAWS WITH
THE DEPARTMENT OF INFORMATION TECHNOLOGY.
The General Assembly of North Carolina enacts:

PART I. SATELLITE BROADBAND GRANTS

SECTION 1.1. G.S. 143B-1373.2 is repealed.

SECTION 1.2. G.S. 143B-1374 is repealed.

SECTION 1.3.(a) The Department of Information Technology shall use funds appropriated for the Growing Rural Economies with Access to Technology program for fixed wireless and satellite broadband grants, established in G.S. 143B-1373.2, to award grants to eligible entities to purchase installation materials for satellite internet service and for the provision of satellite internet service for a period of up to one year. Installation materials and internet service must be for the grantee's own use and not for distribution to other parties. The Department shall prioritize grant applicants that operate in one of the 39 counties designated as a disaster area due to Hurricane Helene. The Department may also give priority to grantees that offer emergency services, disaster relief, educational services, or economic development.

SECTION 1.3.(b) For the purposes of this section, an eligible entity is one of the following:

- (1) A State agency.
- (2) A local government entity.
- (3) An internet service provider.
- (4) A nonprofit organization.

PART II. REPURPOSE BROADBAND FUNDING FOR DISASTER RELIEF FUNDING

SECTION 2.1.(a) The Department of Information Technology may provide emergency funding to communications service providers, as that term is defined in Section 38.10(j) of S.L. 2021-180, to rebuild, repair, replace, and harden broadband infrastructure damaged by Hurricane Helene, including reimbursement of costs already incurred for rebuilding, repairing, replacing, and hardening broadband infrastructure, provided that all of the following apply:

- (1) An applicant for funding under this section shall only be permitted to recover costs that are not subject to reimbursement from another source of external funding, including insurance.



(2) The Department may cap reimbursement at a portion of the costs incurred based upon evaluation of considerations such as the number of applications anticipated compared to funds available.

(3) Priority shall be given to restoration of broadband service.

SECTION 2.1.(b) The Department may use up to fifty million dollars (\$50,000,000) of the funds available from the Broadband Make Ready Accelerator appropriation in S.L. 2021-180. Funds shall be used in compliance with applicable federal guidelines associated with the use of federal funds. The Department may use its emergency procurement authority provided in 09 NCAC 06B .1302 to procure any goods or services in accordance with this section and shall document the request for funding, the emergency situation or need, the area to be served, and the community's need for the procurement.

PART III. CHANGES TO THE BROADBAND POLE REPLACEMENT PROGRAM

SECTION 3.1. Section 38.10 of S.L. 2021-180 reads as rewritten:

"BROADBAND ACCELERATION

...

"SECTION 38.10.(b) The Broadband Pole Replacement Program (hereinafter "Program") is hereby established for the purpose of speeding and facilitating the deployment of broadband service to individuals, businesses, agricultural operations, and community access points in unserved areas by reimbursing a portion of eligible pole replacement costs incurred by communications service providers. A communications service provider who pays or incurs the costs of removing and replacing an existing pole-pole, or placing facilities underground to better protect the critical infrastructure from natural disasters, in connection with a qualified project may apply to the Department for reimbursement in an amount equal to fifty percent (50%) of eligible pole replacement costs paid or incurred by the applicant or ten thousand dollars (\$10,000), whichever is less, for each pole replaced-replaced or, in the case of placing facilities underground, fifty percent (50%) of such costs.

...

"SECTION 38.10.(g) A pole owner shall promptly review a request for access, perform surveys, provide estimates and final invoices, and complete, or require the completion by other attaching entities of, any make-ready work necessary for purposes of offering broadband service in an unserved area. A pole owner shall provide a good-faith estimate for any make-ready costs to the communications service provider within 60 days after receipt of a complete application for access. If requested by the communications service provider, the pole owner shall provide accompanying documentation indicating the basis of all estimated fees or other charges, including, but not limited to, administrative costs, that form the basis of its estimate. A good-faith estimate shall remain valid for 14 days. To accept a good-faith estimate, a communications service provider must provide the pole owner with written acceptance and payment of the good-faith estimate. Make-ready work shall be conditioned upon payment of the good-faith estimate and shall be completed within a reasonable time frame mutually agreed to by the communications service provider and the pole owner. A pole owner may treat multiple requests from a single communications service provider as one application for access when the requests are filed within 90 days of one another. A pole owner may deviate from the time limits specified in this subsection during performance of make-ready work for good and sufficient cause that renders it infeasible to complete make-ready work within the time limits specified in this subsection. Any deviation from the time limits specified in this subsection shall extend for a period no longer than necessary. A communications service provider shall promptly be notified, in writing, of the reason for a deviation and the new completion date estimate. A communications service provider shall provide notice, in writing, to the pole owner no later than 14 days after attaching equipment to a pole in an unserved area. This subsection shall not apply to poles owned by a utility.

"SECTION 38.10.(h) A party subject to a dispute arising under subsection (g) of this section may invoke the dispute procedures authorized in G.S. 62-350 in the same manner as a party seeking resolution of a dispute under G.S. 62-350(c), and the Utilities Commission shall issue a final order resolving the dispute within 120 days of the date the proceedings were initiated; provided, however, the Commission may extend the time for issuance of a final order for good cause and with the agreement of all parties. In such a dispute, the Commission shall apply the provisions of this section notwithstanding any contrary provisions of any existing agreement. This subsection shall not apply to poles owned by a utility.

"SECTION 38.10.(i) No later than 60 days after the date funds are appropriated to the Program special fund, and on a quarterly basis thereafter, the Department shall maintain and publish on its website all of the following:

- (1) The number of applications for reimbursement received, processed, and rejected, including the reasons applications were rejected.
- (2) The amount of each reimbursement, the total number of reimbursements, and the status of any pending reimbursements.
- (3) The estimated remaining balance in the Program special fund.

"SECTION 38.10.(j) The following definitions apply in this section:

...

- (4) Eligible pole replacement cost. – The actual and reasonable costs paid or incurred by a party after June 1, 2021, to (i) remove and replace a pole, including the amount of any expenditures to remove and dispose of the existing pole, purchase and install a replacement pole, and transfer any existing facilities to the new pole-pole or (ii) place facilities, including lines, conduit, and related equipment, underground to better protect the critical infrastructure from natural disaster. The term includes costs paid or incurred by the party responsible for the costs of a pole replacement to reimburse the party that performs the pole replacement. The term does not include costs that the party incurs initially that have been reimbursed to the party by another party ultimately responsible for the costs.

- (5) Pole. – Any pole used, wholly or partly, for any wire communications or electric distribution, irrespective of who owns or operates the ~~pole-pole~~, including poles owned by a utility.

- (6) Pole owner. – A city or cooperatively organized entity that owns utility poles.

- (7) Qualified project. – A project undertaken by a communications service provider ~~that is not affiliated with a pole owner seeking to provide or, due to natural disaster or other force majeure event, restore, temporarily or permanently,~~ qualifying internet access service on a retail basis to one or more households, businesses, agricultural operations, or community access points in an unserved or underserved area. The project may be affiliated with a cooperatively organized entity that owns utility poles but shall not be affiliated with a city that owns utility poles. A pole owner whose affiliate seeks reimbursement for a qualified project shall not pass through the costs for which reimbursement is sought to unaffiliated communications service providers and shall schedule and perform all work in a nondiscriminatory fashion.

...

- (9) Unserved area. – An area in which, according to the most recent map of fixed broadband internet access service made available by the Federal Communications Commission, fixed, terrestrial broadband service at speeds of at least 25 megabits per second download and at least 3 megabits per second upload is unavailable at the time the communications service provider

requests access. An unserved area also includes an area that was previously served but has become unserved due to damage or destruction by a natural disaster. A pole or underground installation shall be presumed to be located in an unserved area if the pole is located in an area that is the subject of a federal or State grant to deploy broadband service, the conditions of which limit the availability of a grant to unserved areas or, in the case of a damaged or destroyed facility, was in such an area when the facility was originally constructed.

(10) Utility. – As defined by 47 U.S.C. § 224.

...."

SECTION 3.2. This Part is effective when it becomes law. Funds encumbered for expenses incurred under this Part as of June 1, 2021, prior to the effective date of this Part shall remain eligible for reimbursement.

PART IV. FUNDING FLEXIBILITY

SECTION 4.1. Section 38.15 of S.L. 2021-180, as enacted by Section 16.1(a) of S.L. 2022-6, reads as rewritten:

"SECTION 38.15. Except as otherwise ~~provided~~, provided and after the intent of the original appropriation has been satisfied to the extent practicable, the Department of Information Technology shall have flexibility to transfer funding between the programs outlined in Section 38.4, Section 38.5, ~~and Section 38.6~~ 38.6, and Sections 38.10(b) through (k) of this act, so long as the total allocations for the programs remain the same.act."

PART V. LIFELINE SERVICE PROVIDERS

SECTION 5.1. Article 3 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-30.1. Designating telecommunications carriers; rules.

(a) Notwithstanding G.S. 62-3(23)j. or G.S. 62-30, the Utilities Commission may, solely upon petition of any provider or reseller of mobile radio communications service, designate the petitioning provider or reseller of mobile radio communications service as an eligible telecommunications carrier pursuant to 47 C.F.R. § 54.201 for purposes of providing Lifeline service. The Commission may adopt rules to effectuate the purposes of this section.

(b) Nothing in this section shall confer upon the Utilities Commission any regulatory jurisdiction over providers or resellers of mobile radio communications service that have been previously designated as eligible telecommunications carriers for purposes of providing Lifeline service prior to the enactment of this section."

PART VI. EFFECTIVE DATE

SECTION 6.1. Except as otherwise provided, this act is effective when it becomes law.